



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales
Y Pwyllgor Cymunedau, Cydraddoldeb a
Llywodraeth Leol
The Communities, Equality and Local Government
Committee

Dydd Iau, 17 Mai 2012
Thursday, 17 May 2012

Cynnwys
Contents

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

Bil Is-ddeddfau Llywodraeth Leol (Cymru)—Cyfnod 2: Ystyried Gwelliannau
Local Government Byelaws (Wales) Bill—Stage 2: Consideration of Amendments

Grŵp 1: Y Pŵer i Wneud Is-ddeddfau (Gwelliannau 1, 2, 3, 4 a 5)
Group 1: Power to Make Byelaws (Amendments 1, 2, 3, 4 and 5)

Grŵp 2: Dirymu a Diwygio Is-ddeddfau (Gwelliannau 6, 7, 8, 9, 44, 10, 11, 17 a 30)
Group 2: Revoking and Amending Bye-laws (Amendments 6, 7, 8, 9, 44, 10, 11, 17 and 30)

Grŵp 3: Ymgynghoriad (Gwelliannau 12, 13, 45, 14, 15, 46, 16, 18, 19, 20, 21, 22, 23 a 24)
Group 3: Consultation (Amendments 12, 13, 45, 14, 15, 46, 16, 18, 19, 20, 21, 22, 23 and 24)

Grŵp 4: Cosbau Penodedig (Gwelliannau 47, 48, 49, 31, 32 a 33)
Group 4: Fixed Penalties (Amendments 47, 48, 49, 31, 32 and 33)

Grŵp 5: Canllawiau (Gwelliannau 25 a 26)
Group 5: Guidance (Amendments 25 and 26)

Group 6: Bye-laws Not Requiring Confirmation (Amendments 27, 28 and 29)

Grŵp 7: Atodlen 2 (Gwelliannau 34, 35, 36, 37, 38, 39, 40, 41, 42 a 43)
Group 7: Schedule 2 (Amendments 34, 35, 36, 37, 38, 39, 40, 41, 42 and 43)

Papurau i'w Nodi: Llythyr gan y Cadeirydd at y Gweinidog Llywodraeth Leol a Chymunedau
 Papers to Note: Letter from the Chair to the Minister for Local Government and Communities

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
 cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
 In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Janet Finch-Saunders	Ceidwadwyr Cymreig Welsh Conservatives
Mike Hedges	Llafur Labour
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Gwyn R. Price	Llafur Labour
Kenneth Skates	Llafur Labour
Rhodri Glyn Thomas	Plaid Cymru The Party of Wales
Joyce Watson	Llafur Labour

Eraill yn bresennol
Others in attendance

Deborah Richards	Cynghorydd Cyfreithiol, Llywodraeth Cymru Legal Adviser, Welsh Government
Carl Sargeant	Aelod Cynulliad, Llafur (Y Gweinidog Llywodraeth Leol a Chymunedau) Assembly Member, Labour (The Minister for Local Government and Communities)

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Bethan Davies	Clerc Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Leanne Hatcher	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 9.29 a.m.
The meeting began at 9.29 a.m.

**Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions**

[1] **Ann Jones:** Good morning, everyone, and welcome to the Communities, Equality and Local Government Committee. I will go through the usual housekeeping rules. I ask everyone to switch off their mobile phones, pagers and anything else that may affect the broadcasting or translation equipment. The committee operates bilingually, and headsets are available for translation. Channel 1 provides the translation from Welsh to English and channel 0 provides the floor language. We are not expecting a fire alarm; if we hear it, we will take our directions from the ushers. The assembly point is the Pierhead building, or, as I often say, you can follow me, because I will be the first one out. As we are in a formal session, we do not have to touch the buttons on the microphones—they will be operated for us. Does anyone wish to declare an interest before we move on? I see that no-one does. We have received apologies from Bethan Jenkins; there is no substitute for her.

9.30 a.m.

**Bil Is-ddeddfau Llywodraeth Leol (Cymru)—Cyfnod 2: Ystyried Gwelliannau
Local Government Byelaws (Wales) Bill—Stage 2: Consideration of
Amendments**

[2] **Ann Jones:** Members should have before them a copy of the Bill, the marshalled list of amendments and the groupings of the amendments for debate. The order in which we will consider the amendments will be sections 1 to 23 and Schedules 1 and 2. As you can see from the groupings list, amendments have been grouped to facilitate debate, but the order in which they are called and moved for a decision is dictated by the marshalled list. There will be one debate on each group of amendments. I will call the proposer of the first amendment in the group, who should speak to and move the first amendment and speak to any other amendments in that group. I will then call other speakers, including any other proposers of amendments in that group, but they should not move those amendments at that stage. Members who do not have an amendment in the group but who wish to speak should indicate in the usual way. I will call the Minister to speak on each group. I will call the proposer of the first amendment in the group to wind up as well. If you are still with me, well done. *[Laughter.]*

[3] Following the debate on a group, I will clarify whether the Member who moved the first amendment still wishes to proceed to a decision. If not, they can seek the agreement of the committee to withdraw the amendment. If it is not withdrawn, we will put the question on the first amendment in the group to members of the committee for a vote. If a Member objects, I will ask for a vote by show of hands, and that vote will be recorded in the minutes. As this is legislation, I ask you to signal your vote clearly, so that the clerks can record your vote. We will have no flicking or waving of pens—as I have done in the past—but a clear signal, so that the clerks can record the votes correctly. For the record, only committee members can move amendments; do not panic, Minister—I will move the amendments in your name, as Chair.

[4] Members will be aware that the only way to debate a section of the Bill is to have tabled an amendment to it. Any sections that do not have amendments tabled to them are deemed to be agreed, as are any sections where tabled amendments are not agreed. I will announce which sections have been agreed at the end of the meeting, if I can remember. Is that clear to everyone? I am sure that it is.

Grŵp 1: Y Pŵer i Wneud Is-ddeddfau (Gwelliannau 1, 2, 3, 4 a 5)
Group 1: Power to Make Byelaws (Amendments 1, 2, 3, 4 and 5)

[5] **Ann Jones:** The lead amendment in the group is amendment 1. Minister, would you like me to move amendment 1 in your name?

[6] **The Minister for Local Government and Communities (Carl Sargeant):** Yes.

[7] **Ann Jones:** I move amendment 1 in the name of Carl Sargeant. I call on the Minister to speak to amendment 1 and to the other amendments in the group.

[8] **Carl Sargeant:** Thank you, Chair, and good morning, committee. I thank the Chair for moving the amendment. Amendments 1 and 2 are technical amendments. They clarify the power provided in section 2 of the Bill, namely to make bye-laws for good rule and government and suppression of nuisances. This applies to county and county borough councils in Wales only—the clarification is necessary, as county councils also exist in England. I ask the committee to support our amendments.

[9] To take amendments 3, 4 and 5 as a package, these are also technical amendments to clarify the Bill, as it applies to legislating authorities in Wales only. I ask the committee to support these amendments and for the Chair to formally move them.

[10] **Ann Jones:** Does anyone wish to speak? I see that no-one does. The question is that amendment 1 be agreed to. Does any Member object? I see that no-one does. Therefore, amendment 1 is agreed in accordance with Standing Order No. 17.34(ii).

Derbyniwyd gwelliant 1.
Amendment 1 agreed.

[11] **Ann Jones:** Minister, do you wish for amendment 2 in your name to be moved?

[12] **Carl Sargeant:** Yes.

[13] **Ann Jones:** I move amendment 2 in the name of Carl Sargeant. The question is that amendment 2 be agreed to. Does any Member object? I see that there is no objection. Amendment 2 is agreed in accordance with Standing Order No. 17.34(ii).

Derbyniwyd gwelliant 2.
Amendment 2 agreed.

[14] **Ann Jones:** Minister, would you like amendment 3 in your name to be moved?

[15] **Carl Sargeant:** Yes.

[16] **Ann Jones:** I move amendment 3 in the name of Carl Sargeant. The question is that amendment 3 be agreed to. Does any Member object? I see that there is no objection. Amendment 3 is agreed in accordance with Standing Order No. 17.34(ii).

Derbyniwyd gwelliant 3.
Amendment 3 agreed.

[17] **Ann Jones:** Minister, would you like amendment 4 in your name to be moved?

[18] **Carl Sargeant:** Yes.

[19] **Ann Jones:** I move amendment 4 in the name of Carl Sargeant. The question is that amendment 4 be agreed to. Does any Member object? I see that there is no objection. Amendment 4 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 4.
Amendment 4 agreed.*

[20] **Ann Jones:** Minister, would you like amendment 5 in your name to be moved?

[21] **Carl Sargeant:** Yes.

[22] **Ann Jones:** I move amendment 5 in the name of Carl Sargeant. The question is that amendment 5 be agreed to. Does any Member object? I see that there is no objection. Amendment 5 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 5.
Amendment 5 agreed.*

**Grŵp 2: Dirymu a Diwygio Is-ddeddfau (Gwelliannau 6, 7, 8, 9, 44, 10, 11, 17 a 30)
Group 2: Revoking and Amending Bye-laws (Amendments 6, 7, 8, 9, 44, 10, 11, 17 and 30)**

[23] **Ann Jones:** The lead amendment is amendment 6. Minister, would you like amendment 6 in your name to be moved?

[24] **Carl Sargeant:** Yes.

[25] **Ann Jones:** I move amendment 6 in the name of Carl Sargeant. I call on the Minister to speak to amendment 6 and any other amendments in the group.

[26] **Carl Sargeant:** There may be times when a legislating authority needs to amend or revoke a bye-law that it has previously made. In most cases, the legislating authority will already have the power to do so, but there may be circumstances where it does not. Section 4 of the Bill currently provides a legislating authority with the power to amend or revoke a bye-law where it does not otherwise have such a power. Amendments 6 and 7 remove the ability of the authority to use the power to amend a bye-law. On reflection, Chair, I do not consider it appropriate for an authority to be able to amend a bye-law when the power to do so has been deemed uncertain. However, the authority would still have the power to revoke a bye-law and replace it with a new bye-law using the enabling powers that are clear in the Bill, as discussed at the Stage 1 committee. I ask the committee to support those amendments.

[27] I move on to amendment 8, which should be read alongside amendments 11, 17 and 30, on clarifying the procedure of making a bye-law. On amendment 9, I have taken note of the committee's recommendation that a more positive expression should be used in the consideration of obsolete bye-laws by Welsh Ministers. Amendment 9 replaces the word 'think' with 'conclude', which I believe is more appropriate in this context. I hope that the committee agrees and supports the amendment.

[28] This group also contains the non-Government amendment 44. I understand the intention behind amendment 44, but the period of time since a bye-law was enforced is potentially just one factor that a Minister would have to consider in determining that a bye-law is obsolete. The absence of enforcement may not in itself be a reliable indicator that a particular bye-law has outlived its usefulness. Therefore, I ask the committee to resist this amendment.

[29] On the Government's amendment 10, the Constitutional and Legislative Affairs Committee considered that, prior to making an Order to make bye-laws obsolete, Welsh Ministers should be required to consult. In practice, we would always seek to consult before making such an Order, but I agree that it would be helpful to put the matter beyond any doubt. To achieve that, amendment 10 requires that Welsh Ministers consult interested parties, including community councils, before making an Order to revoke a bye-law.

[30] Amendment 11 is a drafting amendment. It clarifies bye-laws made by a legislating authority to amend or revoke an existing bye-law under an enactment listed in Part 1 of Schedule 1 to the Bill. I ask the committee to support that. The Government's amendment 17 links to amendment 11 and is also a drafting amendment.

[31] The Government's amendment 30 asks that, when a legislating authority makes a bye-law, exercising its powers under Section 4 of the Bill, and revokes a bye-law when it has no powers to do so, it does not require confirmation if the original bye-law was made under any of the enactments listed under Part 1 of Schedule 1 to the Bill. If the original bye-law made under this enactment is not listed in Schedule 1, the procedure in section 7 will apply. It is quite confusing, Chair, but I am sure that you kept up with that description. I ask the committee to support this amendment. That concludes the amendments in this group.

[32] **Ann Jones:** Does any other Member wish to speak?

[33] **Janet Finch-Saunders:** I wish to formally move—

[34] **Ann Jones:** No, you cannot formally move an amendment. Do you want to speak on the grouping of the amendments?

[35] **Janet Finch-Saunders:** Yes. Good morning, Minister. I move amendment 44, tabled in my—

[36] **Ann Jones:** No, you cannot move amendment 44 at this time; you can speak in the debate on the grouping of amendments. Just take that first bit off your speech and carry on.

[37] **Janet Finch-Saunders:** Okay. The ambiguity surrounding the Minister's powers to revoke bye-laws was a key concern of this committee, as outlined in the March report. I am pleased that the Minister has decided to replace 'think' with the more positive expression, 'conclude'. However, I think that section 5, page 2, line 19 would be further enhanced by my amendment, which places a duty on the Minister to consider the period of time since the bye-law was relied upon. The rationale behind this is quite simple: if a bye-law has been in abeyance for an extended period of time, then it should provide the Minister with some reasonable grounds for it to be revoked. My amendment places a statutory duty on the Minister to bring the period of inactivity of a bye-law into consideration before making the final decision.

[38] **Ann Jones:** I have several Members who wish to speak. We will go to Peter first, then Mike Hedges and then Rhodri Glyn.

[39] **Peter Black:** I wanted some clarification on sections 4 and 6. We are taking away the powers to amend the bye-law in section 4, but the amendment to section 6 includes the power to amend the bye-law. Am I to conclude that the distinction is between amending a historic bye-law and amending a new bye-law that they themselves have brought in? Is that the distinction in terms of the amendment?

[40] **Carl Sargeant:** Yes. Do you want me to answer that now?

[41] **Ann Jones:** No; at the end of the debate, Minister.

[42] **Mike Hedges:** I can understand what Janet Finch-Saunders was trying to do because—[*Inaudible.*]—does it. I have some sympathy with what you are trying to do, but how do you know that a bye-law has not been used? Let us take as an example, ‘No dogs on Swansea beach’. Just because no-one has been prosecuted for taking their dog onto Swansea beach in five, 10 or 15 years, that does not mean that people are not obeying the bye-law or that it is not being enforced. If you then said that it was obsolete because people were obeying the bye-law and removed it, people would then take their dogs onto Swansea beach because they would be allowed to. Where people obey a bye-law and do not breach it, it may well be that the bye-law is working better than people had hoped. So, it would be dangerous, just because no-one had been prosecuted in 15 years for taking their dog onto Swansea beach, to assume that the bye-law was obsolete and remove it for 15 and 20 years, or however long, because, all of a sudden, Swansea beach might be full of dogs because the bye-law was deemed to be obsolete. I can understand what you are trying to say, if it had not been implemented, but sometimes people are obeying a bye-law. No-one has been prosecuted on the road where I live for driving at more than 30 mph since it has been built, but no-one is suggesting that it should stop being a 30-mph road because of that. I can understand what you are getting at, but I think that this would be disadvantageous to the process.

[43] **Ann Jones:** Thank you, Mike; you have given us a couple of examples there.

[44] **Rhodri Glyn Thomas:** Rwy'n meddwl bod rhaid inni ystyried y ddeddfwriaeth hon yn ehangach nac arferion trigolion Abertawe. [*Chwerthin.*] Yn ôl yr hyn rwy'n ei ddeall— mae ychydig bach yn gymhleth—mae'r term 'anarferedig' eisoes yn y ddeddfwriaeth, felly nid y pwynt a gododd Mike Hedges yw'r pwynt perthnasol. Y pwynt perthnasol yw'r un a godwyd gennych yn gynharach, mai dim ond un ystyriaeth yw'r cyfnod o amser a aeth heibio ers defnyddio'r is-ddeddf. A allwch esbonio i ni, Weinidog, pam gredwch nad yw'r ystyriaeth honno'n ddigonol ar gyfer y gwelliant hwn a pha ystyriaethau eraill y byddech chi, fel Gweinidog, yn eu hystyried yn y mater hwn er mwyn caniatáu i ni weld a yw'r gwelliant hwn gan Janet Finch-Saunders yn berthnasol ai peidio?

Rhodri Glyn Thomas: I think that we need to consider this legislation in broader terms than the habits of the residents of Swansea. [*Laughter.*] As I understand it—and it is a little complicated—the term ‘obsolete’ is already in the legislation, so the point that Mike Hedges raised is not the relevant one. The relevant point is the one that you raised earlier, that the period of time that has elapsed since the bye-law was last used is only one consideration. Can you explain to us, Minister, why you believe that that consideration is not adequate for this amendment and what other considerations you, as Minister, would take into account in this matter to enable us to see whether this amendment by Janet Finch-Saunders is relevant or not?

[45] **Ann Jones:** Minister, do you wish to reply?

[46] **Carl Sargeant:** Of course. If I may, I will take Rhodri Glyn's and Janet Finch-Saunders's points first. The point about ‘obsolete’ is that it is already a commonly used term in local government; it is not unique to this Bill. As I said, the principle behind what Janet said is not wrong, but it is just one factor of determination.

9.45 a.m.

[47] A legislating authority that has the ability to confirm whether or not a bye-law is obsolete will go through a procedure of consultation, so that people understand that process. Mike raised some interesting points to demonstrate the real issues around whether a bye-law would be considered obsolete or not. Just because a bye-law appears to be inactive because

there is no breach, that does not mean that it is not being used effectively. That is what an authority that wishes to revoke a bye-law will have to be able to demonstrate, in terms of presenting evidence to people in the consultation and the Minister, in order to get the powers to revoke a bye-law.

[48] On Peter's question, I believe—am I the only person who is able to speak, Chair?

[49] **Ann Jones:** Yes, you are.

[50] **Carl Sargeant:** I thought so. The question that Peter asked on whether or not powers were current in terms of the new or old legislation, some bye-laws do not have enabling powers to amend. We do not believe that it is appropriate to provide a power that the original did not contain. So, in effect, the short answer to your questions is, 'yes'. It is about the new and old procedures that are in place. Hopefully, I have been able to respond to the questions.

[51] **Ann Jones:** Thank you very much, Minister. Do you wish to proceed—

[52] **Rhodri Glyn Thomas:** May I say something?

[53] **Ann Jones:** No, sorry, you cannot come back in; the Minister has replied to the debate. We are not in a normal scrutiny committee; we are now dealing with legislation and the procedure is quite strict.

[54] **Ann Jones:** Do you wish to proceed to a vote on amendment 6, Minister?

[55] **Carl Sargeant:** Yes.

[56] **Ann Jones:** The question is that amendment 6 be agreed to. Are there any objections? I see that there are none. In accordance with Standing Order No. 17.34(ii), I therefore declare amendment 6 agreed.

*Derbyniwyd gwelliant 6.
Amendment 6 agreed.*

[57] **Ann Jones:** Minister, would you like amendment 7 in your name to be moved?

[58] **Carl Sargeant:** Yes.

[59] **Ann Jones:** I move amendment 7 in the Minister's name. The question is that amendment 7 be agreed to. Are there any objections? I see that there are none. In accordance with Standing Order No. 17.34(ii), I therefore declare amendment 7 agreed.

*Derbyniwyd gwelliant 7.
Amendment 7 agreed.*

[60] **Ann Jones:** Minister, would you like amendment 8 in your name to be moved?

[61] **Carl Sargeant:** Yes.

[62] **Ann Jones:** I move amendment 8 in the Minister's name. The question is that amendment 8 be agreed to. Are there any objections? I see that there are none. In accordance with Standing Order No. 17.34(ii), I therefore declare amendment 8 agreed.

*Derbyniwyd gwelliant 8.
Amendment 8 agreed.*

[63] **Ann Jones:** Minister, would you like amendment 9 in your name to be moved?

[64] **Carl Sargeant:** Yes.

[65] **Ann Jones:** I move amendment 9 in the Minister's name. The question is that amendment 9 be agreed to. Are there any objections? I see that there are none. In accordance with Standing Order No. 17.34(ii), I therefore declare amendment 9 agreed.

*Derbyniwyd gwelliant 9.
Amendment 9 agreed.*

[66] **Ann Jones:** Janet, would you like to move amendment 44?

[67] **Janet Finch-Saunders:** I move amendment 44 in my name.

[68] **Ann Jones:** The question is that amendment 44 be agreed to. Are there any objections? I see that there are. Therefore, I call for a vote.

*Gwelliant 44: O blaid 3, Ymatal 0, Yn erbyn 6.
Amendment 44: For 3, Abstain 0, Against 6.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Finch-Saunders, Janet
Isherwood, Mark
Thomas, Rhodri Glyn

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Black, Peter
Hedges, Mike
Jones, Ann
Price, Gwyn R.
Skates, Kenneth
Watson, Joyce

*Gwrthodwyd gwelliant 44.
Amendment 44 not agreed.*

[69] **Ann Jones:** Minister, would you like amendment 10 in your name to be moved?

[70] **Carl Sargeant:** Yes.

[71] **Ann Jones:** I move amendment 10 in the Minister's name. The question is that amendment 10 be agreed to. Are there any objections? I see that there are none. In accordance with Standing Order No. 17.34(ii), I therefore declare amendment 10 agreed.

*Derbyniwyd gwelliant 10.
Amendment 10 agreed.*

[72] **Ann Jones:** Minister, would you like amendment 11 in your name to be moved?

[73] **Carl Sargeant:** Yes.

[74] **Ann Jones:** I move amendment 11 in the Minister's name. The question is that amendment 11 be agreed to. Are there any objections? I see that there are none. In accordance with Standing Order No. 17.34(ii), I therefore declare amendment 11 agreed.

*Derbyniwyd gwelliant 11.
Amendment 11 agreed.*

[75] **Ann Jones:** We will return to vote on the remaining amendments in this group later in proceedings in accordance with the marshalled list.

Grŵp 3: Ymgynghoriad (Gwelliannau 12, 13, 45, 14, 15, 46, 16, 18, 19, 20, 21, 22, 23 a 24)

Group 3: Consultation (Amendments 12, 13, 45, 14, 15, 46, 16, 18, 19, 20, 21, 22, 23 and 24)

[76] **Ann Jones:** The third group of amendments is to consider matters in relation to consultation. The lead amendment in this group is amendment 12. Minister, would you like amendment 12 in your name to be moved?

[77] **Carl Sargeant:** Yes.

[78] **Ann Jones:** I move amendment 12 in the Minister's name. I call on the Minister to speak to amendment 12 and the other amendments in the group.

[79] **Carl Sargeant:** This is quite a large group of amendments. I will be as quick as I can. Amendment 12, in keeping with the committee's recommendations regarding consultations, expands the consultation process procedure to require a legislating authority to consult any community council that it considers likely to be interested in the proposed bye-law. I ask the committee to support this amendment.

[80] On amendments 13 and 14, the committee concluded that the minimum period for consultation for bye-laws should be increased from one month to six weeks. This amendment supports that recommendation. I ask the committee to support these amendments.

[81] On amendment 15, the committee recommended that a community council that does not have its own office should be able to place bye-laws on deposit at the principal office of a relevant authority. While I accept this recommendation in principle, the principal office of the unitary authority may not always be in the most suitable place, particularly in rural areas, where the office may be some distance from the community affected by the bye-law. Amendment 15 increases the options available to all legislating authorities to provide that a bye-law should be placed on deposit in a place in the authority's area. We will provide guidance on what would be deemed an appropriate place; for example, it might include other offices of the authority, such as the local library or a community centre. We will issue guidance on that. I ask the committee to support this amendment.

[82] In keeping with the committee's recommendations regarding the ability of community councils to engage in the bye-law-making process, amendment 16 requires that when a copy of the draft bye-law is placed on deposit, it must also be sent to all affected community councils. A council will have a minimum period of six weeks in which to consider the proposed bye-law and respond. I ask the committee to support this amendment.

[83] I move on to Government amendment 18. I have accepted the committee's recommendation that bye-laws requiring confirmation should be subject to the same statutory consultation arrangements as those not requiring confirmation.

[84] On Government amendments 19 and 20, again, these refer to the recommendation made by the committee that there should be an increase in the minimum period of the deposit of the bye-law, before it is submitted to Welsh Ministers for confirmation, from one month to six weeks. I ask the committee to support these amendments.

[85] Amendments 21 and 22 are the equivalent of amendment 15, but relate to the bye-

laws that require confirmation. They increase the options available to all legislating authorities by amending section 7 to provide that the bye-law should be placed on deposit in a place in the authority's area, rather than at the principal office.

[86] Government amendment 23 is consistent with amendment 16, in that it provides that the legislating authority must send a copy of the bye-law that was placed on deposit to all affected community councils.

[87] Government amendment 24, in relation to section 8, deals with the formalities of making and confirming the bye-law. In keeping with previous amendments, this amendment provides that once a bye-law is made, or where it requires confirmation, it must be deposited at a place in the authority's area.

[88] I move on to non-Government amendment 45. I note that Janet Finch-Saunders has not brought forward comparable amendments in relation to websites for sections 7 and 8. Later today, I will be issuing the promoting local democracy White Paper, which will include proposals that all community and town councils should work towards publishing information on a website within the next couple of years. Collaboration with the unitary authority in their areas, or other community councils, may be a practical way forward for the councils with limited resources, but I do not consider that placing a new statutory burden on unitary authorities is appropriate. I ask the committee not to support this amendment.

[89] On non-Government amendment 46, I do not disagree with the apparent objective of this amendment, but it is deficient because there is not always a suitable venue to deposit a bye-law notice at the place where it is to apply. For example, the bye-law could relate to a field for ball games, in which case it would be difficult to post a notice in the middle of the field. However, I am not opposed to the principle, but there has to be some realism.

[90] I note that Janet Finch-Saunders has not proposed a similar amendment to the comparable provisions in sections 7 and 8 of the Bill, and I consider that the intent of amendment 46 would probably be better realised by way of statutory guidance under section 18 of the Bill to which the legislating authorities must have regard. I ask the committee to resist that amendment.

[91] **Ann Jones:** Do any Members wish to speak to this group?

[92] **Mike Hedges:** Yes, on three issues. I was pleased to hear the Minister, in discussing amendment 15, mention the word 'appropriate', and say that he would put it in the advice, because, as it stands at the moment, a change in Newtown could be advertised in Ystradgynlais and it would meet the requirements. The word 'appropriate' is desperately needed. I would have preferred to have seen it in the Bill, but if the Minister will not put it in the Bill, I want to see it in the advice.

[93] On amendment 46, it is not just paths, is it? I am thinking of the Castle Square issue. Castle Square is an open square with nowhere to advertise a bye-law—similarly, there would be nowhere to advertise one on a beach. Again, I think that what Janet Finch-Saunders is trying to do is to get it placed somewhere where local people who are interested in it can see it, and I agree with that entirely. The Minister is saying that the advice will include the word 'appropriate'; I think that it would have been better to have that word in the Bill, because we are relying on the good sense of local authorities otherwise, and on their not trying to do something that is not advertising.

[94] On amendment 45, I am not convinced, if a community council is not capable of running its own website, that it would be capable of enacting a bye-law. That is an important question. As a matter of general principle, I do not like imposing duties on unitary authorities.

A fortnight ago, as a member of a unitary authority, I would have been even more strongly opposed to it. Now that, like Peter Black, I am no longer a member of one, I still oppose giving them duties that will incur costs for them and which they would think would be unfair. It would take away the need for community councils to produce their own website, because they would think, 'It's okay, the council will do it for us'. As I said yesterday on another matter, I always feel that it is wrong for us to say, 'Oh, it doesn't matter, we don't have to do it ourselves. We can pass it on.' That is why I will oppose amendment 45.

[95] **Janet Finch-Saunders:** I will oppose amendments 15, 21, 22 and 24 and I wish to speak to amendment 45. Do you want me to discuss my opposition first?

[96] **Ann Jones:** In your speech, you should cover all the points that you want to cover.

[97] **Janet Finch-Saunders:** Okay. As regards amendment 45, when this committee took evidence from key stakeholders, it was persistently raised that some legislating authorities, particularly community councils, may not yet have websites and may struggle to have them in the future. My amendment 45 would amend the Bill to ensure that the exceptional circumstances of very small community councils are taken into consideration and, furthermore, allow them to use the resources of the larger authorities in which they are located. This harks back to the charter between community councils and local authorities, and I think that there could be scope for that in that. Allowing community councils to use the websites of their county or county borough equivalents will ensure that community councils are not dissuaded from capitalising upon the enhanced bye-law-making powers that are allowed for in the Bill and will facilitate the public consultation process that is so essential to the effective functioning of the bye-law process in Wales. It is really so that these smaller agencies are not left behind, because small community councils at times feel disenfranchised both from their communities and from local authorities. I hope that other Members will consider supporting this amendment.

[98] Amendment 46:

[99] 'Section 6, page 3, line 14, after "office", insert "and at a place to which the byelaw is to apply"'

[100] is an important principle.

[101] I will oppose amendments 15, 21, 22 and 24, which state:

[102] 'leave out "its principal office" and insert "a place in the authority's area".'

10.00 a.m.

[103] We oppose these amendments, not only because, if they are agreed, amendment 46 would fall, but also because I believe that the original wording is preferable, in being more straightforward and less ambiguous. I contend that 'a place in the authority's area' is very poor wording. Without wishing to sound flippant, it could, in theory, entail placing the draft bye-law in the town clerk's kitchen or some other such building. We must aim for precision in the wording of this Bill if it is to become law, and the wording that I would like to see would embrace the benefits of having documents laid at the principal office of a legislating authority, which has high visibility and a widespread recognition of its location—most people are aware of the location of their county halls, for example—as well as ensuring that a proposed bye-law is available at a locally accessible and relevant location. I therefore commend amendment 46 to Members.

[104] **Peter Black:** Far be it from me to contradict Mike Hedges, but I think that there is a

noticeboard in Castle Square. *[Laughter.]*

[105] **Ann Jones:** We are back to Swansea now.

[106] **Peter Black:** I thought that I would just mention that.

[107] I am happy to support the Minister's amendments. It makes sense to give local authorities flexibility as to where they display the notice. Hopefully, the guidance will give further indications to them that they should not display the notice in the clerk's kitchen, but in an appropriate place.

[108] I think that the point has been well made that it is not always possible to post a notice in the area to which the bye-law would apply. That is why I agree that we should resist amendment 46, because that can be encompassed in the Minister's amendments in that, if an authority has that discretion, the guidance would, hopefully, indicate that the notice should be displayed as close as possible to the area affected. I think that makes a lot of sense.

[109] I am a bit concerned about the opposition to amendment 45, which I support. I do not see asking local authorities to use their websites as placing a huge burden on them. If there is a cost to the county council or the county borough council, it is possible that the community council that is promoting the bye-law could meet that cost in any case. Clearly, it would not be a great burden on them.

[110] I accept that there are community councils that do not have websites—I can think of one in my region, Coedffranc, which has 12 employees, and which administers a major park and several play areas, as well as having quite a lot of other responsibilities, but does not have a website. Those people are perfectly capable of making a bye-law, even though they do not have a website. Including a provision that they have to place a bye-law on a website of some sort might bring them into the twenty-first century and wake them up to the fact that there is such a thing as the internet. I am very pleased that the Minister has made a commitment that he will be asking community councils to have websites in the near future, because that is important. Nonetheless, I do not see how that nullifies this amendment. I think that amendment 45 proposes an important addition to the Bill that I can support, because it does not include an extra burden, but it would provide additional publicity for bye-laws, and I think that it would also make community councils more aware of the fact that they should be using websites to publicise their activities.

[111] **Rhodri Glyn Thomas:** Rwy'n mynd i siarad am welliannau 45 a 46. Yn groes i Peter Black, rwy'n barod i dderbyn yr hyn a ddywedodd y Gweinidog am welliant 45. Os mai cynnig arweiniad i gynghorau ynglŷn â hysbysu hyn yw ei fwriad, rwy'n hapus i ddisgwyl i weld ei ddatganiad. Wrth gwrs, os nad ydym yn hapus gyda'r datganiad hwnnw, mae modd i ni gynnig gwelliannau a sicrhau bod yr arweiniad y mae'r Gweinidog yn ei gynnig yn fwy penodol. Nid wyf yn anghytuno â'r hyn yr oedd Peter yn ei ddweud, sef bod cyfrifoldeb i sicrhau bod yr wybodaeth hon yn hysbys a bod cydweithredu, ond credaf i'r Gweinidog ateb y pwynt hwnnw.

Rhodri Glyn Thomas: I shall speak to amendments 45 and 46. Contrary to Peter Black, I am willing to accept what the Minister has said about amendment 45. If it is his intention to give guidance to councils about publicising this, I am happy to wait to see his statement. Of course, if we are not happy with that statement, we can suggest amendments and ensure that the guidance the Minister offers is more specific. I do not disagree with what Peter said, that is, that there is a responsibility to ensure that this information is out there and that there is collaboration, but I think that the Minister has answered that point.

[112] O ran gwelliant 46, nid wyf yn siŵr a With regard to amendment 46, I am not sure

oedd wedi ateb y pwynt a godwyd gan Janet Finch-Saunders. Cyfeiriwyd at gaeau ac at draethau, ond, yn y naill le a'r llall, mae pob math o arwyddion yn cael eu gosod. O ran traethau, ni fyddai'n dderbyniol peidio â chodi arwydd yn dweud bod nofio yno'n beryglus am nad oedd yr un man priodol i'w osod—byddai man priodol.

that he answered the point that Janet Finch-Saunders raised. Fields and beaches were referred to, but, in both of those places, all sorts of signs are put up. In the case of beaches, it would not be acceptable not to put up a sign to inform people that swimming there was dangerous because there was not an appropriate place to put it up—there would be an appropriate place.

[113] O edrych ar union eiriad y gwelliant, nid yw'n benodol ynglŷn â pha le y dylid gosod y wybodaeth hon. Mae'n dweud dylid ei gosod

Looking at the exact wording of the amendment, it does not specify where this information should be placed. It states that it should be placed

[114] 'mewn man y bydd yr is-ddeddf yn gymwys iddo'.

'at a place to which the byelaw is to apply'.

[115] Gall hynny olygu man sy'n arwain at gae neu draeth neu unrhyw safle arall lle y byddai'r is-ddeddfwriaeth hon yn gymwys iddo. Byddwn am gael mwy o wybodaeth gan y Gweinidog ynglŷn â pham yn union y mae'n gwrthwynebu hyn. A oes unrhyw gamau y bydd yn eu cymryd yn lle cefnogi'r gwelliant hwn gan Janet Finch-Saunders?

That could mean somewhere that leads to a field or a beach or any other site to which the bye-law would apply. I would like more information from the Minister on why exactly he opposes this. Are there any steps that he will be taking in place of supporting this amendment from Janet Finch-Saunders?

[116] **Ann Jones:** Does anyone else wish to speak before I call the Minister to reply? I see that no-one does, and so I call on the Minister to reply.

[117] **Carl Sargeant:** I thank colleagues for their comments. To pick up on the general principle of the opposition amendments 45 and 46, first, amendment 46, as Rhodri Glyn pointed out, is not specific in its wording, and therefore I believe that that amendment is weak. We have been clear that we will issue statutory guidance to legislating authorities. Again, I am keen that the consultation process should be effective, and that is why we are making amendments in terms of the principal office element. Posting a notice in a principal office or the town clerk's kitchen may have absolutely no effect if the area affected by the bye-law is 30, 40 or 50 miles away from the principal office. That is why we have to be effective in where we use this. I agree with the Member that there are appropriate places in many areas, but it is a very general position in relation to beaches, parks and so on where it may be posted. I think that the guidance will be sufficiently strong to ensure that the authorities that need to comply with this will have the correct information to do so.

[118] On the website element, Janet Finch-Saunders suggested that some smaller community councils are feeling left behind on the basis of this, but I would suggest that councils without websites are slightly behind the times in their technological ability, whether that is because of capability or funding. I am hoping to address that, as I said, with the local democracy Bill, and will be making some further statements around that. Supporting this amendment today would give out the wrong signal, suggesting that it is acceptable to continue not to have a website, and not to get into the twenty-first century in using information technology. Therefore, while I am not opposed to a smaller authority using a unitary authority's services through a compact arrangement, which already happens, I think that supporting this amendment would send out the wrong message. There is an expectation in this Bill that local authorities and community and town councils should bring themselves into the new technological age of websites and easily accessible information. Therefore, I suggest that

Members oppose this amendment.

[119] **Ann Jones:** Minister, do you want to move to a vote on amendment 12?

[120] **Carl Sargeant:** Yes.

[121] **Ann Jones:** The question is that amendment 12 be agreed to. Are there any objections? I see that there are none. In accordance with Standing Order No. 17.34(ii), I therefore declare amendment 12 agreed.

*Derbyniwyd gwelliant 12.
Amendment 12 agreed.*

[122] **Ann Jones:** Minister, would you like amendment 13 in your name to be moved?

[123] **Carl Sargeant:** Yes.

[124] **Ann Jones:** I move amendment 13 in the Minister's name. The question is that amendment 13 be agreed to. Are there any objections? I see that there are none. In accordance with Standing Order No. 17.34(ii), I therefore declare amendment 13 agreed.

*Derbyniwyd gwelliant 13.
Amendment 13 agreed.*

[125] **Ann Jones:** Janet, do you wish to move amendment 45?

[126] **Janet Finch-Saunders:** Yes. I move amendment 45 in my name.

[127] **Ann Jones:** The question is that amendment 45 be agreed to. Are there any objections? I see that there are. Therefore I call for a vote.

*Gwelliant 45: O Blaid 3, Ymatal 0, Yn erbyn 6
Amendment 45: For 3, Abstain 0, Against 6*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted in favour:

Black, Peter
Finch-Saunders, Janet
Isherwood, Mark

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Hedges, Mike
Jones, Ann
Price, Gwyn R.
Skates, Kenneth
Thomas, Rhodri Glyn
Watson, Joyce

*Gwrthodwyd gwelliant 45.
Amendment 45 not agreed.*

[128] **Ann Jones:** Minister, would you like amendment 14 in your name to be moved?

[129] **Carl Sargeant:** Yes.

[130] **Ann Jones:** I move amendment 14 in the Minister's name. The question is that amendment 14 be agreed to. Are there any objections? I see that there are none. In accordance with Standing Order No. 17.34(ii), I therefore declare amendment 14 agreed.

Derbyniwyd gwelliant 14.

Amendment 14 agreed.

[131] **Ann Jones:** Minister, would you like amendment 15 in your name to be moved?

[132] **Carl Sargeant:** Yes.

[133] **Ann Jones:** I move amendment 15 in the name of the Minister. If amendment 15 is agreed to, amendment 46 will fall. The question is that amendment 15 be agreed to. Are there any objections? I see that there are. Therefore, I call for a vote.

Gwelliant 15: O Blaid 7, Ymatal 0, Yn erbyn 2
Amendment 15: For 7, Abstain 0, Against 2

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted in favour:

Black, Peter
Hedges, Mike
Jones, Ann
Price, Gwyn R.
Skates, Kenneth
Thomas, Rhodri Glyn
Watson, Joyce

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Finch-Saunders, Janet
Isherwood, Mark

Derbyniwyd gwelliant 15.
Amendment 15 agreed.

[134] **Ann Jones:** As amendment 15 has been agreed to, amendment 46 in the name of Janet Finch-Saunders falls.

Methodd gwelliant 46.
Amendment 46 fell.

[135] **Ann Jones:** We now move to dispose of the next amendment on the marshalled list, which is amendment 16. Minister, would you like amendment 16 in your name to be moved?

[136] **Carl Sargeant:** Yes.

[137] **Ann Jones:** I move amendment 16 in the name of the Minister. The question is that amendment 16 be agreed to. Does any Member object? I see that there are no objections. Therefore, amendment 16 is agreed in accordance with Standing Order No. 17.34(ii).

Derbyniwyd gwelliant 16.
Amendment 16 agreed.

[138] **Ann Jones:** In accordance with the marshalled list, we now move to dispose of amendment 17, which was debated in group 2. Minister, would you like amendment 17 in your name to be moved?

[139] **Carl Sargeant:** Yes.

[140] **Ann Jones:** I move amendment 17 in the name of the Minister. The question is that amendment 17 be agreed to. Does any Member object? I see that there are no objections. Therefore, amendment 17 is agreed in accordance with Standing Order No. 17.34(ii).

Derbyniwyd gwelliant 17.
Amendment 17 agreed.

[141] **Ann Jones:** In accordance with the marshalled list, we now move to dispose of amendments 18, 19, 20, 21, 22, 23 and 24, which were debated in group 3. Minister, would you like amendment 18 in your name to be moved?

[142] **Carl Sargeant:** Yes.

[143] **Ann Jones:** I move amendment 18 in the name of the Minister. The question is that amendment 18 be agreed to. Does any Member object? I see that there are no objections. Therefore, amendment 18 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 18.
Amendment 18 agreed.*

[144] **Ann Jones:** Minister, would you like amendment 19 in your name to be moved?

[145] **Carl Sargeant:** Yes.

[146] **Ann Jones:** I move amendment 19 in the name of the Minister. The question is that amendment 19 be agreed to. Does any Member object? I see that there are no objections. Therefore, amendment 19 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 19.
Amendment 19 agreed.*

[147] **Ann Jones:** Minister, would you like amendment 20 in your name to be moved?

[148] **Carl Sargeant:** Yes.

[149] **Ann Jones:** I move amendment 20 in the name of the Minister. The question is that amendment 20 be agreed to. Does any Member object? I see that there are no objections. Therefore, amendment 20 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 20.
Amendment 20 agreed.*

[150] **Ann Jones:** Minister, would you like amendment 21 in your name to be moved?

[151] **Carl Sargeant:** Yes.

[152] **Ann Jones:** I move amendment 21 in the name of the Minister. The question is that amendment 21 be agreed to. Does any Member object? I see that there is objection. Therefore, we will proceed to a vote on amendment 21.

*Gwelliant 21: O Blaid 7, Ymatal 0, Yn erbyn 2
Amendment 21: For 7, Abstain 0, Against 2*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted in favour:

Black, Peter
Hedges, Mike
Jones, Ann
Price, Gwyn R.
Skates, Kenneth
Thomas, Rhodri Glyn

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Isherwood, Mark
Finch-Saunders, Janet

Watson, Joyce

*Derbyniwyd gwelliant 21.
Amendment 21 agreed.*

[153] **Ann Jones:** Minister, would you like amendment 22 in your name to be moved?

[154] **Carl Sargeant:** Yes.

[155] **Ann Jones:** I move amendment 22 in the name of the Minister. The question is that amendment 22 be agreed to. Does any Member object? I see that there is objection. Therefore, we will proceed to a vote on amendment 22.

*Gwelliant 22: O Blaid 7, Ymatal 0, Yn erbyn 2
Amendment 22: For 7, Abstain 0, Against 2*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted in favour:

Black, Peter
Hedges, Mike
Jones, Ann
Price, Gwyn R.
Skates, Kenneth
Thomas, Rhodri Glyn
Watson, Joyce

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Finch-Saunders, Janet
Isherwood, Mark

*Derbyniwyd gwelliant 22.
Amendment 22 agreed.*

[156] **Ann Jones:** We now move to dispose of amendment 23. Minister, do you wish for amendment 23 in your name to be moved?

[157] **Carl Sargeant:** Yes.

[158] **Ann Jones:** I move amendment 23 in the name of the Minister. The question is that amendment 23 be agreed to. Does any Member object? I see that there are no objections. Therefore, amendment 23 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 23.
Amendment 23 agreed.*

[159] **Ann Jones:** Minister, would you like amendment 24 in your name to be moved?

[160] **Carl Sargeant:** Yes.

[161] **Ann Jones:** I move amendment 24 in the name of the Minister. The question is that amendment 24 be agreed to. Does any Member object? I see that there is objection. Therefore, we will proceed to a vote on amendment 24.

*Gwelliant 24: O Blaid 7, Ymatal 0, Yn erbyn 2
Amendment 24: For 7, Abstain 0, Against 2*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted in favour:

Black, Peter
Hedges, Mike

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Finch-Saunders, Janet
Isherwood, Mark

Jones, Ann
 Price, Gwyn R.
 Skates, Kenneth
 Thomas, Rhodri Glyn
 Watson, Joyce

*Derbyniwyd gwelliant 24.
 Amendment 24 agreed.*

**Grŵp 4: Cosbau Penodedig (Gwelliannau 47, 48, 49, 31, 32 a 33)
 Group 4: Fixed Penalties (Amendments 47, 48, 49, 31, 32 and 33)**

[162] **Ann Jones:** The lead amendment in this group is amendment 47. I call on Janet Finch-Saunders to move amendment 47 and speak to the other amendments in this group.

[163] **Janet Finch-Saunders:** I move amendment 47 in my name.

[164] I have stated throughout this process, Minister, that I broadly welcome the provisions within this Bill and that the principles within it are generally sound and sensible. I would like to take this opportunity to thank the Minister for his conduct to date in relation to this process. In the main, I have found the Minister's conduct to be refreshing in terms of his openness and his willingness to seek consensus.

[165] I bring forward these amendments today in what I hope will be seen as a similar spirit. Furthermore, I would like to state that I welcome the majority of the Minister's amendments, many of which demonstrate that he has reflected upon the concerns of this committee as well as the views of our key stakeholders. However, some concerns and doubts remain and I see it as our job to ensure that these are addressed as effectively as possible.

10.15 a.m.

[166] The first of our amendments in group 4 is relatively self-explanatory. In an age of diminishing public resources, my fear is that there may be an incentive for some local authorities to pursue additional revenue streams that might include fixed-penalty notices, particularly if their ability to enact fixed penalties is to be enhanced, as it will be if and when this Bill becomes law. I therefore think that a clause should be added in the Bill that unequivocally states that fixed-penalty notices should be issued in a manner that displays restraint, and that they should not be used as an additional revenue stream. This would help to counteract this fear. As such, it is a statement of principle that leaves no room for ambiguity. I ask members of the committee to support this.

[167] With regard to the second amendment—amendment 48 on the marshalled list—it is my belief that we should ensure maximum public confidence in this extension of the fixed-penalty notice regime. However, the problem with the Bill as it currently stands is that although it places a duty on local authorities to authorise officers in writing, doing so is meaningless to members of the public unless they can freely access and view the names of authorised officers in the first place. I also know that Welsh Ministers may prescribe conditions that need to be satisfied by a person before a council may authorise that person for the purpose of giving fixed-penalty notices. This amendment is intended to complement these provisions.

[168] Inserting the wording outlined in amendment 48 would help to bolster public confidence in the system of bye-law enforcement in a way that provides maximum transparency, at little or no additional cost to taxpayers. It would also ensure that individuals and communities can check to see whether written authorisation is being adhered to by the legislating authorities, and it will also help to eradicate any room for doubt that may currently

exist in the Bill's provision.

[169] The third and final amendment tabled by me in this group—amendment 49—is designed to ensure full democratic control of the powers of Welsh Ministers over regulations relating to the Local Government Byelaws (Wales) Bill. Although I am persuaded that the present Minister will no doubt exercise his powers responsibly, there are few safeguards in the Bill at present to ensure democratic control of any future Minister who may potentially exercise his or her powers in a different and less responsible fashion. Requiring a resolution of the National Assembly to confirm the regulations relating to this Bill will ensure that Welsh Ministers do not go beyond the scope deemed acceptable by the National Assembly for Wales, and, as such, would provide an additional democratic safeguard.

[170] As for the Government amendments in group 4, I do not feel the need to pass too much comment. I confirm that we will support amendments 31, 32 and 33, but I would like to add that the whole list outlined in Schedule 1, Part 2 would be enhanced should the committee support my amendments in this group.

[171] In summary, amendments 47, 48 and 49 are premised upon three principles: ensuring restraint in the use of fixed penalties; bolstering public confidence in the issuing of these fixed penalties; and providing an extra democratic safeguard with regard to these regulations. I hope that I can count on other Members' support.

[172] **Peter Black:** I see so many loopholes in the way in which amendment 47 has been worded that I find it very difficult to know where to start in opposing it. Any authority that has officers exercising a statutory duty of this kind has a test of reasonableness applied to it in law in any case. It is very difficult to legislate for restraint and for what makes an additional revenue stream. Any additional income derived by a local authority is an additional revenue stream, whether it is £5 or £5,000. It is very difficult to find wording that will meet the purpose of this amendment. For that reason, and because the wording of the amendment is so loose, I cannot possibly support it.

[173] There is a slight difference in terms of amendment 48. I have no problem with the authority publishing on its website a list of authorised employees under paragraph 12(a). In fact, under normal circumstances, the minutes of a local authority that authorises an officer should be published on the website. So, to specify that there should be a separate section of the website that specifies which officers are authorised to issue fixed notices is no great hardship and adds further clarity to the process. So, I am happy to support that amendment.

[174] However, Janet's final amendment—amendment 49—that the Assembly should approve regulations that prescribe conditions to be satisfied before a community council may authorise a person for the purpose of giving notices is probably too much of a belt-and-braces approach. That is the sort of thing that the Minister should be able to do without having to come before the Assembly. It is not down to us to debate in the National Assembly those sorts of issues when we have wider issues of which we should be taking account.

[175] **Rhodri Glyn Thomas:** Rwy'n cytuno â Peter Black ynghylch gwelliant 47, ond, yn ogystal â hynny, mae elfen o ymddiriedaeth yn angenrheidiol. Rydym yn ymddiried yn swyddogion ac awdurdodau i ddeddfu yn y maes hwn mewn modd cyfrifol. Os na allwn gynnal yr ymddiriedaeth honno, a phan nad oes partneriaeth, byddai derbyn y gwelliant hwn yn tanseilio hynny. **Rhodri Glyn Thomas:** I agree with Peter Black regarding amendment 47, but, in addition, an element of trust is necessary. We trust officers and authorities to legislate in this area in a responsible way. If we cannot maintain that trust, and when there is no partnership, then agreeing to this amendment would undermine that.

[176] O ran gwelliant 48, rwy'n aros i glywed yr hyn sydd gan y Gweinidog i'w ddweud. Fodd bynnag, ar hyn o bryd, rwy'n gefnogol i'r gwelliant oherwydd, o ran tryloywder, byddai'n sicrhau eglurder ynglŷn â'r modd y byddai'r is-ddeddfau hyn yn cael eu gweithredu.

In relation to amendment 48, I am waiting to hear what the Minister has to say. However, at present, I am supportive of this amendment because, in terms of transparency, it would ensure clarity in the way that these bye-laws are implemented.

[177] O ran gwelliant 49, eto, rwy'n aros i glywed yr hyn sydd gan y Gweinidog i'w ddweud. Mae'n braf iawn clywed bod gan Janet Finch-Saunders gymaint o ymddiriedaeth yn y Gweinidog presennol. Rhaid imi gyfaddef, fodd bynnag, nad wyf yn argyhoeddedig am yr angen am y gwelliant hwn. Tueddaf i gytuno â'r hyn y mae Peter Black wedi'i ddweud. Er hynny, rwyf am aros i glywed yr hyn sydd gan y Gweinidog i'w ddweud cyn penderfynu'n derfynol sut i bleidleisio.

In relation to amendment 49, again, I await what the Minister has to say. It is good to hear that Janet Finch-Saunders trusts the present Minister so much. However, I must admit that I have not been convinced of the need for this amendment. I tend to agree with what Peter Black has said. Having said that, I will await what the Minister has to say before finally deciding which way to vote.

[178] **Mike Hedges:** I do not often say that I agree with Peter Black, but I agree with him in relation to amendments 47 and 49, so I will not say anything more on those. On amendment 48, if I remember rightly, when we were discussing whether to have fixed penalties, one of the things that we discussed was whether police community support officers could carry out that duty. If that were the case, that would create huge difficulties, such as having to list all of the PCSOs in a police authority area, particularly when people leave their posts or join. I am pretty certain that we decided during our debate that PCSOs would be the ideal people to enact this, which would make amendment 48 unfeasible.

[179] **Ann Jones:** Does any other Member wish to speak?

[180] **Peter Black:** On that point, amendment 48 clearly relates to a resolution of the council. So, if the council resolves, it would apply. If a PCSO had a general power, then it would not apply.

[181] **Ann Jones:** Minister, do you wish to reply to the discussion?

[182] **Carl Sargeant:** Yes, Chair. I am pleased that Members have indicated their support for that. I will first talk to the non-Government amendments put forward by Janet Finch-Saunders and try to answer some of the questions posed.

[183] On amendment 47, I entirely agree that fixed-penalty notices should not be used by an authority as a potential revenue stream. However, Rhodri Glyn is correct in relation to the element of professional standards. We entrust people with power to make the appropriate decision. I believe that these issues would be better served by statutory guidance, which I am happy to table during the passage of the Bill.

[184] Amendment 48 is slightly odd in terms of the element of clarity. I am all for legislating authorities publishing lists of people or professionals who do a particular type of job, or are empowered to do so. However, Janet was arguing the case that a person involved, who may be subject to a fixed-penalty notice, may not know who is able to issue that correctly. If that was the case on a beach or in a field, where a bye-law was being breached, they will not run back to check the website to see whether that person is a legal entity in terms of his or her ability to commence a process. In practice, the legislating officer with the

appropriate powers will have to demonstrate to the person to whom he or she is applying the fixed-penalty notice his or her position and ability to proceed with the notice. That is one element.

[185] The other element is slightly odd in that the Member is proposing that a list of people should be posted on their websites, yet only five minutes ago she was arguing that councils did not have websites. Therefore, it would be slightly odd to ask an authority to publish on something that is not available.

[186] I will move on to opposition amendment 49. I believe that the Assembly negative resolution procedure provides an appropriate degree of scrutiny for this, and I am grateful to Members for recognising all the elements that we have to consider in terms of appropriateness to deal with some of the actions of community, town and unitary authorities. We believe that the negative resolution procedure is the appropriate tool to deal with this section. I hope that I have answered the questions from Members, Chair.

[187] **Ann Jones:** Janet, do you wish to reply to the debate?

[188] **Janet Finch-Saunders:** No; I think that I have made my point.

[189] **Ann Jones:** Janet, do you wish to proceed to a vote on amendment 47?

[190] **Janet Finch-Saunders:** Yes.

[191] **Ann Jones:** The question is that amendment 47 be agreed to. Does any Member object? I see that there are objections. I therefore call for a vote.

Gwelliant 47: O blaid 2, Ymatal 0, Yn erbyn 7.

Amendment 47: For 2, Abstain 0, Against 7.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Finch-Saunders, Janet
Isherwood, Mark

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Black, Peter
Hedges, Mike
Jones, Ann
Price, Gwyn R.
Skates, Kenneth
Thomas, Rhodri Glyn
Watson, Joyce

Gwrthodwyd gwelliant 47.

Amendment 47 not agreed.

[192] **Ann Jones:** Janet, do you wish to move amendment 48?

[193] **Janet Finch-Saunders:** I move amendment 48 in my name.

[194] **Ann Jones:** The question is that amendment 48 be agreed to. Does any Member object? I see that there are objections. I therefore call for a vote.

Gwelliant 48: O blaid 4, Ymatal 0, Yn erbyn 5.

Amendment 48: For 4, Abstain 0, Against 5.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Black, Peter
Finch-Saunders, Janet
Isherwood, Mark
Thomas, Rhodri Glyn

Hedges, Mike
Jones, Ann
Price, Gwyn R.
Skates, Kenneth
Watson, Joyce

*Gwrthodwyd gwelliant 48.
Amendment 48 not agreed.*

[195] **Ann Jones:** We will return to vote on the remaining amendments in this group later in the proceedings, in accordance with the marshalled list.

[196] Would Members like a five-minute break at this point, or are you happy to continue? I see that you are happy to continue.

**Grŵp 5: Canllawiau (Gwelliannau 25 a 26)
Group 5: Guidance (Amendments 25 and 26)**

[197] **Ann Jones:** The lead amendment in this group is amendment 25. Minister, would you like amendment 25 in your name to be moved?

[198] **Carl Sargeant:** Yes.

[199] **Ann Jones:** I move amendment 25 in the name of the Minister. I call on the Minister to speak to amendment 25 and the other amendment in the group.

[200] **Carl Sargeant:** Amendments 25 and 26 should be read together. I have accepted the Constitutional and Legislative Affairs Committee's recommendation that the power in section 18 for Welsh Ministers to issue guidance was unduly restrictive. I ask the committee to support these amendments.

[201] **Ann Jones:** Do any Members wish to speak? I see that no-one wishes to speak. Therefore, Minister, there is no need to reply to the debate.

[202] Minister, do you wish to proceed to a vote on amendment 25?

[203] **Carl Sargeant:** I wish to proceed to a vote, Chair.

[204] **Ann Jones:** The question is that amendment 25 be agreed to. Does any Member object? I see that there are no objections. Therefore, amendment 25 is agreed, in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 25.
Amendment 25 agreed.*

[205] **Ann Jones:** Minister, would you like amendment 26 in your name to be moved?

[206] **Carl Sargeant:** Yes.

[207] **Ann Jones:** I move amendment 26 in the name of the Minister.

[208] The question is that amendment 26 be agreed to. Does any Member object? I see that there are no objections. Therefore, amendment 26 is agreed in accordance with Standing Order No. 17.34(ii).

Derbyniwyd gwelliant 26.

Amendment 26 agreed.

[209] **Ann Jones:** In accordance with the marshalled list, we now move to dispose of amendment 49 in the name of Janet Finch-Saunders; this has already been debated in group 4. Janet, do you wish to move amendment 49?

[210] **Janet Finch-Saunders:** I move amendment 49 in my name.

[211] **Ann Jones:** The question is that amendment 49 be agreed to. Does any Member object? I see that there are objections. We will therefore proceed to a vote.

Gwelliant 49: O blaid 2, Ymatal 0, Yn erbyn 7.

Amendment 49: For 2, Abstain 0, Against 7.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Finch-Saunders, Janet
Isherwood, Mark

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Black, Peter
Hedges, Mike
Jones, Ann
Price, Gwyn R.
Skates, Kenneth
Thomas, Rhodri Glyn
Watson, Joyce

Gwrthodwyd gwelliant 49.
Amendment 49 not agreed.

10.30 a.m.

Grŵp 6: Is-ddeddfau Pan Na Fo Cadarnhad yn Ofynnol (Gwelliannau 27, 28 a 29)
Group 6: Bye-laws Not Requiring Confirmation (Amendments 27, 28 and 29)

[212] **Ann Jones:** The lead amendment in this group is amendment 27. Minister, would you like amendment 27 in your name to be moved?

[213] **Carl Sargeant:** Yes.

[214] **Ann Jones:** I move amendment 27 in the Minister's name. Minister, do you wish to speak to this and the other amendments in the group?

[215] **Carl Sargeant:** I ask that we take amendments 27, 28 and 29 as a package. Taken together, they add the bye-law-making powers contained in section 31 of the Road Traffic Regulation Act 1984 to Part 1 of Schedule 1 to the Bill, so that the bye-laws made under the legislation do not require confirmation by Welsh Ministers. I ask the committee to support these amendments.

[216] **Ann Jones:** Does any Members wish to speak? I see that no-one does. Minister, do you wish to proceed to a vote on amendment 27?

[217] **Carl Sargeant:** Yes.

[218] **Ann Jones:** The question is that amendment 27 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 27 is agreed in accordance with Standing Order No. 17.34(ii).

Derbyniwyd gwelliant 27.

Amendment 27 agreed.

[219] **Ann Jones:** Minister, would you like amendment 28 in your name to be moved?

[220] **Carl Sargeant:** Yes.

[221] **Ann Jones:** I move amendment 28 in the name of the Minister. The question is that amendment 28 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 28 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 28.
Amendment 28 agreed.*

[222] **Ann Jones:** Minister, would you like amendment 29 in your name to be moved?

[223] **Carl Sargeant:** Yes.

[224] **Ann Jones:** I move amendment 29 in the Minister's name. The question is that amendment 29 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 29 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 29.
Amendment 29 agreed.*

[225] **Ann Jones:** In accordance with the marshalled list, we now move to dispose of amendment 30, which was debated in group 2. Minister, would you like amendment 30 in your name to be moved?

[226] **Carl Sargeant:** Yes.

[227] **Ann Jones:** I move amendment 30 in the name of the Minister. The question is that amendment 30 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 30 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 30.
Amendment 30 agreed.*

[228] **Ann Jones:** In accordance with the marshalled list, we now move to dispose of amendments 31 to 33, which were debated in group 4. Minister, would you like amendment 31 in your name to be moved?

[229] **Carl Sargeant:** Yes.

[230] **Ann Jones:** I move amendment 31 in the name of the Minister. The question is that amendment 31 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 31 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 31.
Amendment 31 agreed.*

[231] **Ann Jones:** Minister, would you like amendment 32 in your name to be moved?

[232] **Carl Sargeant:** Yes.

[233] **Ann Jones:** I move amendment 32 in the name of the Minister. The question is that

amendment 32 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 32 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 32.
Amendment 32 agreed.*

[234] **Ann Jones:** Minister, would you like amendment 33 in your name to be moved?

[235] **Carl Sargeant:** Yes.

[236] **Ann Jones:** I move amendment 33 in the name of the Minister. The question is that amendment 33 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 33 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 33.
Amendment 33 agreed.*

**Grŵp 7: Atodlen 2 (Gwelliannau 34, 35, 36, 37, 38, 39, 40, 41, 42 a 43)
Group 7: Schedule 2 (Amendments 34, 35, 36, 37, 38, 39, 40, 41, 42 and 43)**

[237] **Ann Jones:** The lead amendment in this group is amendment 34. Minister, would you like amendment 34 in your name to be moved?

[238] **Carl Sargeant:** Yes.

[239] **Ann Jones:** I move amendment 34 in the name of the Minister and I call the Minister to speak to amendment 34 and the other amendments in this group.

[240] **Carl Sargeant:** Amendments 34 to 43 are predominantly technical amendments. I am happy to take any questions that Members may wish to raise with me.

[241] **Ann Jones:** Does any Member wish to speak in this debate? I see that no-one does. Minister, do you wish to proceed to a vote on amendment 34?

[242] **Carl Sargeant:** Yes, please.

[243] **Ann Jones:** The question is that amendment 34 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 34 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 34.
Amendment 34 agreed.*

[244] **Ann Jones:** Minister, would you like amendment 35 in your name to be moved?

[245] **Carl Sargeant:** Yes.

[246] **Ann Jones:** I move amendment 35 in the name of the Minister. The question is that amendment 35 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 35 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 35.
Amendment 35 agreed.*

[247] **Ann Jones:** Minister, would you like amendment 36 in your name to be moved?

[248] **Carl Sargeant:** Yes.

[249] **Ann Jones:** I move amendment 36 in the name of the Minister. The question is that amendment 36 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 36 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 36.
Amendment 36 agreed.*

[250] **Ann Jones:** Minister, would you like amendment 37 in your name to be moved?

[251] **Carl Sargeant:** Yes.

[252] **Ann Jones:** I move amendment 37 in the name of the Minister. The question is that amendment 37 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 37 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 37.
Amendment 37 agreed.*

[253] **Ann Jones:** Minister, would you like amendment 38 in your name to be moved?

[254] **Carl Sargeant:** Yes.

[255] **Ann Jones:** I move amendment 38 in the name of the Minister. The question is that amendment 38 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 38 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 38.
Amendment 38 agreed.*

[256] **Ann Jones:** Minister, would you like amendment 39 in your name to be moved?

[257] **Carl Sargeant:** Yes.

[258] **Ann Jones:** I move amendment 39 in the name of the Minister. The question is that amendment 39 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 39 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 39.
Amendment 39 agreed.*

[259] **Ann Jones:** Minister, would you like amendment 40 in your name to be moved?

[260] **Carl Sargeant:** Yes.

[261] **Ann Jones:** I move amendment 40 in the name of the Minister. The question is that amendment 40 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 40 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 40.
Amendment 40 agreed.*

[262] **Ann Jones:** Minister, would you like amendment 41 in your name to be moved?

[263] **Carl Sargeant:** Yes.

[264] **Ann Jones:** I move amendment 41 in the name of the Minister. The question is that amendment 41 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 41 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 41.
Amendment 41 agreed.*

[265] **Ann Jones:** Minister, would you like amendment 42 in your name to be moved?

[266] **Carl Sargeant:** Yes.

[267] **Ann Jones:** I move amendment 42 in the name of the Minister. The question is that amendment 42 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 42 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 42.
Amendment 42 agreed.*

[268] **Ann Jones:** Minister, would you like amendment 43 in your name to be moved?

[269] **Carl Sargeant:** Yes.

[270] **Ann Jones:** I move amendment 43 in the name of the Minister. The question is that amendment 43 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 43 is agreed in accordance with Standing Order No. 17.34(ii).

*Derbyniwyd gwelliant 43.
Amendment 43 agreed.*

[271] **Ann Jones:** All the amendments have been disposed of. For the record, all sections of the Bill have been agreed by the committee. As we have disposed of all amendments, Stage 3 begins tomorrow. The deadline for tabling amendments for Stage 3 will be notified to Members in due course.

[272] As we have amended the Bill, do Members agree that the Welsh Government should prepare a revised explanatory memorandum? I see that you do.

[273] That concludes Stage 2 proceedings of the Local Government Byelaws (Wales) Bill. I thank the Minister and his officials for coming in and for going through that procedure with us. It has been a long time since we have done that.

[274] **Peter Black:** I presume, Chair, that an amended Bill will be issued to us so that we can see it.

[275] **Ann Jones:** Yes, that is accepted.

[276] **Peter Black:** I thought that that was the case.

[277] **Ann Jones:** I have one other thing to mention, which is to say that we are now proceeding to Stage 2 of the Official Languages (Wales) Bill. As a committee, we are required to agree the order of consideration for the Stage 2 proceedings relating to the Official Languages (Wales) Bill. I suggest that we dispose of amendments in accordance with

Standing Order No. 26.21, so that they are disposed of in the same way as we have disposed of amendments to the Local Government Byelaws (Wales) Bill. I know that two committee members will not be included in that, but are other Members content that we use that procedure? I see that they are.

[278] **Peter Black:** Are you doing that now?

[279] **Ann Jones:** No, we will do that when we get to Stage 2. We have to formally agree a process for Stage 2 so that it can proceed.

10.38 a.m.

Papurau i'w Nodi: Llythyr gan y Cadeirydd at y Gweinidog Llywodraeth Leol a Chymunedau
Papers to Note: Letter from the Chair to the Minister for Local Government and Communities

[280] **Ann Jones:** There is a paper to note.

[281] Thank you all very much. That is quite a tedious process, but it has to be gone through. I think that I will remember Standing Order No. 17.34(ii) until I leave this place. Thank you.

Daeth y cyfarfod i ben am 10.38 a.m.
The meeting ended at 10.38 a.m.